

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6112

BILL NUMBER: HB 1369

NOTE PREPARED: Nov 9, 2007

BILL AMENDED:

SUBJECT: Defenses to Controlled Substance Offenses.

FIRST AUTHOR: Rep. Davis

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: The bill repeals certain defenses that are available under current law to a person who is charged with a felony drug offense of an elevated class because the person is alleged to have been within 1,000 feet of school property, a public park, a family housing complex, or a youth program center at the time of the offense.

Effective Date: July 1, 2008.

Explanation of State Expenditures: Under current law, certain offenses receive enhanced penalties if it can be proved that they took place within 1,000 feet of school property, a public park, a family housing complex, or a youth program center. However, the law provides certain defenses to the enhanced penalty that, under the bill, would be removed. To the extent that more enhanced penalties could occur without the defenses, the state would incur additional costs for longer periods of incarceration. However, there are no data available to indicate how many additional offenders may receive enhanced penalties as the result of repeal of the defenses.

The fiscal impact of enhanced penalties occurs when the offender remains in custody beyond the time that the offender would have served for the underlying offense. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Background Information: Below is the average annual number of offenders committed to state facilities between 2001 and 2005 for the underlying drug crime and for the enhanced penalties. (Note: There are other

factors that could subject an offender to an enhanced penalty besides the location of the crime. Not all offenders receiving an enhanced penalty committed a crime within 1,000 feet of school property, a public park, a family housing complex, or a youth program center.)

Indiana Code Cite and Description	Underlying Crime Class ----- Enhanced Penalty Class	Average Annual Number of Commitments 2002-2006
IC 35-48-4-1 Dealing in Cocaine or a Narcotic Drug	Class B Class A	1,023 175
IC 35-48-4-2 Dealing in Schedule I, II, or III Controlled Substance	Class B Class A	210 6
IC 35-48-4-3 Dealing in a Schedule IV Controlled Substance	Class C Class B	15 5
IC 35-48-4-4 Dealing in a Schedule V Controlled Substance	Class D Class B	2 2
IC 35-48-4-6 Possession of Cocaine or Narcotic Drug	Class D Class B / Class A	582 116 / 28
IC 35-48-4-7 Possession of Schedule IV Controlled Substance	Class D Class C	212 50
IC 35-48-4-10 Dealing in Marijuana, Hash Oil, or Hashish	Class A Misdemeanor Class C	N/A 58
IC 35-48-4-14.5 Possession of Precursors to Methamphetamine	Class D Class C	72 18

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected:

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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